

Article 17.

Marketing and Branding Farm Products.

§ 106-185. Scope of Article; federal-State cooperation.

(a) Scope. – This Article gives the Department of Agriculture and Consumer Services the authority to investigate marketing conditions for and establish and maintain standard grades, packages, and State brands for farm products. As used in this Article, the term "farm products" means farm crops, horticultural crops, and animal products.

(b) Cooperation. – The Commissioner of Agriculture may enter into agreements with the United States Department of Agriculture that require State and federal cooperation in performing the duties imposed by this Article. (1919, c. 325, s. 1; C.S., s. 4781; 1921, c. 140; 1993, c. 223, s. 1; 1997-261, s. 36.)

§ 106-186. Power to employ agents and assistants.

The Board of Agriculture is charged with the execution of the provisions of this Article, and has authority to employ such agents and assistants as may be necessary, fix their compensation and define their duties, and may require bonds in such amount as they may deem advisable, conditioned upon the faithful performance of duties by any employee or agent. (1919, c. 325, s. 2; C.S., s. 4782.)

§ 106-187. Board of Agriculture to investigate marketing of farm products.

It shall be the duty of the Board of Agriculture to investigate the subject of marketing farm products, to diffuse useful information relating thereto, and to furnish advice and assistance to the public in order to promote efficient and economical methods of marketing farm products, and authority is hereby given to gather and diffuse timely information concerning the supply, demand, prevailing prices, and commercial movement of farm products, including quantities in common and cold storage, and may interchange such information with the United States Department of Agriculture. (1919, c. 325, s. 3; C.S., s. 4783.)

§ 106-188. Promulgation of standards for receptacles, etc.

After investigation, and from time to time as may be practical and advisable, the Board shall have authority to establish and promulgate standards of opened and closed receptacles for, and standards for the grade and other classification of farm products, by which their quantity, quality, and value may be determined, and prescribe and promulgate rules and regulations governing the marks, brands, and labels which may be required for receptacles for farm products, for the purpose of showing the name and address of the producer or packer; the quantity, nature and quality of the product, or any of them, and for the purpose of preventing deception in reference thereto, and for the purpose of establishing a State brand for any farm product produced in North Carolina: Provided, that any standard for any farm product or receptacle therefor, or any requirement for marking receptacles for farm products, now or hereafter established under authority of the Congress of the United States, shall forthwith, as far as applicable, be established or prescribed and promulgated as the official standard or requirement in this State: Provided, that no standard established or requirement for marking prescribed under this Article shall become effective until the expiration of 30 days after it shall have been promulgated. (1919, c. 325, s. 4; C.S., s. 4784.)

§ 106-189. Sale and receptacles of standardized products must conform to requirements.

Whenever any standard for the grade or other classification of any farm product becomes effective under this Article no person thereafter shall pack for sale, offer to sell, or sell within this State any such farm product to which such standard is applicable, unless it conforms to the standard, subject to such reasonable variations therefrom as may be allowed in the rules and regulations made under this Article: Provided, that any farm product may be packed for sale, offered for sale, or sold, without conforming to the standard for grade or other classification applicable thereto, if it is especially described as not graded or plainly marked as "Not graded." This proviso shall not apply to peaches. (It is the intent and purpose of this exemption to exempt peaches from the requirements of Article 17 of Chapter 106 that ungraded peaches, when sold or offered for sale, shall be marked "ungraded," "field run," "not graded," "grade not determined" or "unclassified," or words of similar import.) The Board of Agriculture, or the Commissioner of Agriculture, and their authorized agents, are authorized to issue "stop-sale" orders which shall prohibit further sale of the products if they have reason to believe such products are being offered, or exposed, for sale in violation of any of the provisions of this Article until the law has been complied with or said violations otherwise legally disposed of.

Whenever any standard for an open or closed receptacle for a farm product shall be made effective under this Article no person shall pack for sale in and deliver in a receptacle, or sell in and deliver in a receptacle, any such farm product to which such standard is applicable, unless the receptacle conforms to the standard, subject to such variations therefrom as may be allowed in the rules and regulations made under this Article, or unless the receptacle be of a capacity twenty-five percent (25%) less than the capacity of the minimum standard receptacle for the product: Provided, that any receptacle for such farm product of a capacity within twenty-five percent (25%) of, or larger than, the minimum standard receptacle for the product may be used if it be specifically described as not a standard size, or be conspicuously marked with the phrase, "Not standard size," in addition to any other marking which may be prescribed for such receptacles under authority given by this Article.

Whenever any requirement for marking a receptacle for a farm product shall have been made effective under this Article no person shall sell and deliver in this State any such farm product in a receptacle to which such requirement is applicable unless the receptacle be marked according to such requirements. (1919, c. 325, s. 5; C.S., s. 4785; 1943, c. 483; 1969, c. 849.)

§ 106-189.1: Repealed by Session Laws 1983, c. 248, s. 3.

§ 106-189.2. Sale of immature apples.

(a) Notwithstanding any other provision of law, the Board of Agriculture shall adopt requirements for apple grade standards. The apple grade standards shall include the requirements for maturity of the United States standards for grades of apples and may employ the use of the refractometer to determine the sugar content and maturity of apples and the pressure test to determine the maturity of apples. All apples sold, offered for sale, or shipped into this State shall meet these requirements.

(b) Any person, firm or corporation violating the provisions of this section shall be guilty of a Class 3 misdemeanor and shall be punished only by a fine of not less than one hundred dollars (\$100.00). Each day on which apples are sold or offered for sale in violation of the provisions of

this section shall constitute a separate violation. (1973, c. 973; 1985, c. 585; 1993, c. 539, s. 746; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 106-190. Inspectors or graders authorized; revocation of license.

The Board is authorized to employ, license, or designate persons to inspect and classify farm products and to certify as to the grade or other classification thereof, in accordance with the standards made effective under this Article, and shall fix, assess and collect, or cause to be collected, fees for such services. Whenever, after opportunity for a hearing is afforded to any person employed, licensed, or designated under this section, it is determined that such person has failed to classify farm products correctly in accordance with the standards established therefor under this Article, or has violated any provision of this Article, or of the rules and regulations made hereunder, the Board may suspend or revoke the employment, license, or designation of such person. Pending investigation the person in charge of this work may suspend or revoke any such appointment, license, or designation temporarily without hearing. (1919, c. 325, s. 6; C.S., s. 4786.)

§ 106-190.1. Aggregate State service credit for graders.

All fruit, vegetable, grain, poultry, egg and egg products graders employed by the Board in positions in fact permanent and full-time, but who were inadvertently or incorrectly classified as temporary until January 1, 1974, shall be given aggregate State service credit for the period of employment before January 1, 1974. This credit shall be given only to persons employed on a full-time, year-round basis during which time they were classified as temporary. Credit shall be given for purposes of determining the amount of leave earned by the employee, eligibility for and amount of longevity pay, and any other determinations for which the length of State service is relevant. Employees given retroactive aggregate State service credit under this section shall receive retroactive longevity pay, to the extent for which they would have been eligible for longevity pay if they had been correctly classified from the date of their initial employment, for all service beginning January 1, 1974, until August 1, 1977, with any longevity pay actually paid to be subtracted therefrom. (1977, c. 1038, s. 1.)

§ 106-191. Appeal from classification.

The owner or person in possession of any farm product classified in accordance with the provisions of this Article may appeal from such classification under such rules and regulations as may be prescribed. (1919, c. 325, s. 7; C.S., s. 4787.)

§ 106-192. Certificate of grade prima facie evidence.

A certificate of the grade or other classification of any farm product issued under this Article shall be accepted in any court of this State as prima facie evidence of the true grade or other classification of such farm product at the time of its classification. (1919, c. 325, s. 8; C.S., s. 4788.)

§ 106-193. Unwholesome products not classified; health officer notified.

Any person employed, licensed, or designated shall neither classify nor certify as to the grade or other classification of any farm product which, in his judgment, is unwholesome or unfit for

food of man or other animal. If, in the performance of his official duties, he discovers any farm product which is unwholesome or unfit for food of man or for other animal for which it is intended, he shall promptly report the fact to a health officer of the State or of any county or municipality thereof. (1919, c. 325, s. 9; C.S., s. 4789.)

§ 106-194. Inspection and sampling of farm products authorized.

Agents and employees are authorized from time to time to ascertain the amount of any farm products in this State, to inspect the same in the possession of any person engaged in the business of marketing them in this State, and to take samples of such products. In carrying out these purposes agents and employees are authorized to enter on any business day, during the usual hours of business, any storehouse, warehouse, cold storage plant, packing house, stockyard, railroad yard, railroad car, or any other building or place where farm products are kept or stored by any person engaged in the business of marketing farm products. (1919, c. 325, ss. 10, 11; C.S., s. 4790.)

§ 106-194.1. Farm Product Inspection Account.

The Farm Product Inspection Account is established as a nonreverting account within the Department of Agriculture and Consumer Services. Interest and other investment income earned by the Account shall be credited to it.

Fees collected under this Article shall be credited to the Account and applied to the costs of administering this Article. Fees credited to the Account from grading and inspection services provided under a cooperative agreement with the United States Department of Agriculture are subject to any restrictions on use set out in the cooperative agreement. (1993, c. 223, s. 2; 1997-261, s. 109.)

§ 106-195. Rules and regulations; how prescribed.

The Board of Agriculture is authorized to make and promulgate such rules and regulations as may be necessary to carry out the provisions of this Article. Such rules and regulations shall be made to conform as nearly as practicable to the rules and regulations of the Secretary of Agriculture of the United States, prescribed under any act of Congress of the United States relating to the marketing of farm products. (1919, c. 325, s. 12; C.S., s. 4791.)

§ 106-196. Violation of Article or regulations a misdemeanor.

Any person who violates any provision of this Article, or of the rules and regulations made under the Article for carrying out its provisions, or fails or refuses to comply with any requirement thereof, or who wilfully interferes with agents or employees in the execution, or on account of the execution, of his or their duties, shall be guilty of a Class 3 misdemeanor. (1919, c. 325, ss. 13, 14; C.S., s. 4792; 1993, c. 539, s. 747; 1994, Ex. Sess., c. 24, s. 14(c).)